

TASK FORCE TO STUDY MAINE'S HOMELAND SECURITY NEEDS

DRAFT LEGISLATION

Title: An Act to Facilitate the Hiring of Health Care Personnel during Emergency Circumstances

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 M.R.S.A. § 816, as enacted by PL 2003, c. 438, § 2, is enacted to read:

§816. Immunity

1. For private institutions. Any private institution, its employees or agents are immune from civil liability to the extent provided in Title 14, chapter 741, as if that institution were a state agency and its employees and agents were state employees, for any acts taken to provide for the confinement or restraint of a person committed pursuant to this chapter or for participating in reporting under this chapter, or for engaging in any prescribed care within the meaning of this chapter in support of the State's response to a declared extreme public health emergency in accordance with the provisions of this chapter and Title 37-B, chapter 13, subchapter 2.

2. Healthcare Workforce. A private institution is immune from civil penalties and liability for any actions arising from allegations of inadequate investigation prior to that institution's hiring or engagement of a licensed health care worker, including but not limited to allegations of negligent hiring, credentialing or privileging, for services provided within the scope of that health care worker's licensure in response to a declared health emergency declared pursuant to section 802, subsection 2; an extreme public health emergency as defined in section 801, subsection 4-A; or a disaster as defined in Title 37-B, section 703 subsection 2 as long as the private institution hires or engages the services of the licensed health care worker in accordance with this subsection.

A. When hiring or engaging the services of a licensed health care worker that, at the time of hiring or engagement, is employed or privileged by any entity in any state, a private institution may rely upon the representation of that employing or privileging entity regarding appropriate screening of the worker, such as background investigation, primary source verification, credentialing or privileging.

B. When hiring or engaging the services of a licensed health care worker that, at the time of hiring or engagement, is retired or unemployed, a private institution may rely upon the representation of the worker's most recent employer or privileging entity if that employment or privileging occurred within the previous 24 months.

C. If an employer or privileging entity is unable to respond to the inquiries of a private institution due to a public health threat, extreme public health emergency or disaster circumstances, the private institution may rely on the licensed health care worker's representations regarding that worker's status or pre-employment screening or privileging review.

A private institution that complies with this subsection may hire or engage the services of a licensed health care worker and be deemed in compliance with all state licensing standards.

2. Reporting and proceedings. Any person participating in reporting under this chapter or participating in a related communicable disease investigation or proceeding, including, but not limited to, any person serving on or assisting a multidisciplinary intervention team or other investigating or treatment team, is immune from civil liability for the act of reporting or participating in the investigation or proceeding in good faith. Good faith does not include instances when a false report is made and the reporting person knows or should know the report is false.

3. For public institutions or employees. Immunity for public institutions and employees shall be governed by Title 14, chapter 741.

SUMMARY

This bill grants private institutions that hire or engage with licensed health care personnel immunity from civil liability in the event of a declared public health emergency, an extreme public health emergency, or in response to a disaster for any actions arising from allegations of inadequate investigation prior to their engagement, including but not limited to negligent hiring, credentialing or privileging, for services provided within the scope of that health care practitioner's licensure.